

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

DANIEL C. FLINT.,
for himself and all others similarly situated,

Plaintiff,

v.

ALLY FINANCIAL INC.,
a Delaware Corporation,
UAR NATIONAL SERVICES, LLC.,
a Tennessee Limited Liability Company, and
ASSOCIATES ASSET RECOVERY, LLC.,
a South Carolina Limited Liability Company,
Jointly and Severally, Directly and Vicariously,

Defendants.

Case No. 3:19-cv-00189

**PLAINTIFF’S RESPONSE TO DEFENDANT’S
MOTION TO DISMISS PURSUANT TO F.R.C.P. 12(b)(6)**

NOW COMES Plaintiff, DANIEL FLINT (“Plaintiff”), by and through his attorneys, The Law Offices of Daniel C. Flint, P.C., and pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, Plaintiff respectfully moves this Court for an Order striking Defendant Ally Financial’s Motion to Strike Class Allegations [Dkt. No. 18], Defendant UAR National Services, LLC’s Motion to Strike Class Allegations [Dkt. No. 22], Associates Asset Recovery, LLC’s Motion to Strike Class Allegations [Dkt. No. 24], and all reference to a pending California District Court matter involving Plaintiff (collectively “Defendants’ motions”). In support of this motion, Plaintiff states as follows:

1. “Pursuant to [Fed. R. Civ. P. 12(f)], a trial court is entitled to strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” *United States v. Ancient Coin Collectors Guild*, 899 F.3d 295, 325 (4th Cir., 2018).

2. Defendants' motions to strike are based upon their alleged argument that "Plaintiff should be disqualified as lead class counsel due to his felony conviction in California that has led to suspension of his Michigan law license and current litigation regarding his North Carolina law license." [Dkt. No 24-1, p.2]
3. Each Defendant relies upon this same misleading argument in support of their motion to strike.
4. To begin, no certified conviction has ever been filed against Plaintiff and he is currently active and in good standing to practice law in North Carolina.
5. In addition, Plaintiff currently has a pending Petition for Writ of Error Coram Nobis, based upon the government's manipulation of evidence in the California case, which the government has been ordered to respond to by September 3, with a reply due September 5. This Petition should vacate the conviction, making Defendants' arguments moot. (Petition **Attached as Exhibit 1**).
6. Most importantly, Defendants' argument as to why Plaintiff should be disqualified as lead counsel are not ripe for review, as no certified conviction has been filed and the pending petition should vacate the jury verdict.
7. Because Defendants' argument are not ripe, they are by definition an "insufficient defense." Therefore, Defendants' motions must be stricken from the record pursuant to Rule 12(f).
8. Defendants' reliance and discussions regarding the California matter pervades each of their motions, thus each motion must be stricken in its entirety.
9. On August 27, 2019, Plaintiff sought concurrence with all Defense counsel regarding the relief requested. Such concurrence was not given.

REQUEST FOR RELIEF

Therefore, Plaintiff, Daniel Flint, respectfully requests this Court for an Order striking Defendant Ally Financial's Motion to Strike Class Allegations [Dkt. No. 18], Defendant UAR National Services, LLC's Motion to Strike Class Allegations [Dkt. No. 22], Associates Asset Recovery, LLC's Motion to Strike Class Allegations [Dkt. No. 24], and all reference to a pending California District Court matter involving Plaintiff.

PROOF OF SERVICE

The undersigned certifies that the forgoing instrument was filed using the ECF system on August 28, 2011, and the Court will automatically send notice of such filing to counsel of record.

Signature /s/Daniel C. Flint

/s/ Daniel C. Flint

Law Offices of Daniel C. Flint, P.C.

Daniel C. Flint (50,000)

Counsel for Plaintiff

525 N. Tryon, Suite 1600

Charlotte, NC 28203

(704) 904-8469

Date: August 28, 2019